



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:

5720

ARSF/11U100639

June 23, 2011

MR MICHAEL MORISY
185 BEACON ST #3
SOMERVILLE MA 01243

Dear Mr. Morisy:

SUBJECT: HQMC-201100048

This refers to your October 26, 2010, Freedom of Information Act (FOIA) request by which you seek to obtain a copy of the Marine Corps IPv6 Transition Plan document and follows up my correspondence to you on October 29, 2010, November 23, 2010, and December 10, 2010.

Please be advised that, although you indirectly assert that you should be afforded "media requester" status, I have categorized you as an "Other Requester" for the purpose of assessing FOIA processing fees. The FOIA sets three standards that must be met for a requester to qualify as a representative of the news media: (1) the requester must be a person or entity that gathers information of potential interest (news) to a segment of the public [the FOIA defines news as information that is about current events or that would be of current interest to the public], (2) the requester must use his/her editorial skills to turn the raw materials into a distinct work, and (3) the requester must distribute that work to an audience. After reviewing your request, I have determined that you have not met all of the standards listed above.

Further, be advised that, while you seek fee waiver based upon your statement that "the requested documents will be made available to the general public free of charge as part of the public information service at MuckRock.com, processed by a representative of the news media/press and is made in the process of news gathering and not for commercial usage," such statement alone does not automatically entitle you to such a waiver of fees. Pursuant to the fee waiver statutory requirements set forth at 5 U.S.C. § 552(a)(4)(A)(iii), documents shall be furnished without any charge, or at a reduced charge, if the FOIA requester can demonstrate that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Requesters asking for a fee waiver or reduction must present information in support of such request. The mere fact that a fee waiver has been requested does not automatically mean that a fee waiver should be granted, even if the requester is a private citizen, representative of the media, or a nonprofit public interest organization. Requests for fee waivers must be considered on a case-by-case basis. The granting of a fee waiver for one request does not mean that a fee waiver will automatically be granted on a later request from the same requester. In order to determine whether the statutory requirements are met, the Agency must consider six factors summarized below:

(1) the subject matter of the requested records must specifically concern identifiable operations of activities of the government (a request for records for their informational content alone does not satisfy this factor);

(2) disclosure of the requested records must be "likely to contribute" to the public understanding of government operations, must be meaningfully informative in relation to the subject matter of the request, and should not already be in public domain;

(3) disclosure of requested records must contribute to "public understanding of government operations" and must contribute to the understanding of the public at large, as opposed to the limited understanding of the requester or a narrow segment of interested persons (one must demonstrate with reasonable specificity the ability to understand, extract, and convey the requested information as well as the ability and intent to actively disseminate the information to the general public);

(4) disclosure of the records must contribute significantly" to public understanding of government operations or activities; on balance, the public's understanding of government operations must be significantly greater after disclosure in comparison to the public's understanding prior to disclosure;

(5) the extent to which disclosure of the records will serve the requester's commercial interest, if any (status as a nonprofit organization or representative of the news media is not alone sufficient to satisfy this requirement); and

(6) the extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

In establishing fee waiver justification to the above criteria, a FOIA requester should provide a clear statement documenting (1) his/her interest in the requested documents and whether he/she will derive income from the proposed use, (2) how the public will benefit from such use and from the release of the requested documents, (3) if specialized use of the documents or information is contemplated, a statement of his/her qualifications that are relevant to the specialized use, (4) how he/she plans to disseminate the documents or information to the public, and (5) any additional information he/she deems relevant to the fee waiver request.

Based on the information provided in your letter, I have determined that your justification does not adequately address or answer the above questions and, therefore, does not meet the threshold for granting a fee waiver under Department of Defense regulations [32 CFR §286.28(d)]. Accordingly, I am denying your request for a waiver of fees.

Note that, as an "Other Requester," you are entitled to two hours of search and 100 pages of duplication free of charge. While you would normally be responsible for the payment of search and/or duplication fees exceeding your free entitlement, and you provided no "promise to pay" for any additional search and/or duplication fees, I initiated a search of the files maintained by the Command, Control, Communications, and Computer (C4) Department of this Headquarters with guidance to process only until such time as your free entitlement was exhausted. In this instance, however, search and duplication fees have not exceeded your free entitlement, so the search and duplication process was completed and no fees will be assessed for the processing of this request.

I have reviewed the copy of the Marine Corps IPv6 Transition Plan recently provided to my office by C4 personnel. That review reveals that the Marine Corps IPv6 Transition Plan contains information which, if disclosed, would reveal computer system security vulnerabilities that an adversary

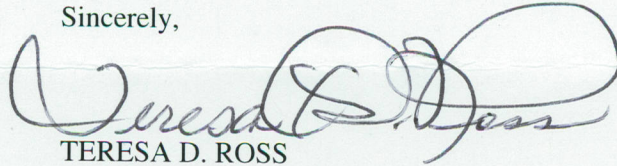
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could use to disrupt communications in the deployed environment. The Marine Corps IPv6 Transition Plan enhances security and addresses known security vulnerabilities that have been recognized with IPv4 version. Accordingly, since disclosure of this type of information would essentially nullify the computer system security measures established by the Marine Corps IPv6 Transition Plan, the applicable portions of the responsive document are redacted and denied [5 U.S.C. § 552(b)(7)(E)]. A copy of the releasable portions of the Marine Corps IPv6 Transition Plan is provided on the CD-ROM at the enclosure.

Because I have denied your request for media status and a waiver of fees and have denied portions of the requested document, you may consider this an adverse determination that may be appealed to the Judge Advocate General of the Navy, Judge Advocate General (Code 14), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Your appeal, if any, must be postmarked within 60 calendar days from the date of this letter to be considered and should include a copy of your initial request, a copy of this correspondence, and a written statement indicating why you believe your appeal should be granted. I recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal."

Questions concerning this action may be directed to Ms. Best at (703) 614-4008. Please reference the file number listed above whenever corresponding on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Teresa D. Ross", with a large, stylized loop at the end.

TERESA D. ROSS
Head, FOIA & Privacy Acts Section
Security Programs & Information Mgmt Branch
Administration Resource Mgmt Division

Enclosure